



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 10, 2004

Ms. Pamela Smith  
Sr. Assistant General Counsel  
Texas Department of Public Safety  
P. O. Box 4087  
Austin, Texas 78773-0001

OR2004-4723

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 203178.

The Texas Department of Public Safety (the "department") received a request for any documents that "detail expenses incurred to provide security for Gov. Rick Perry during his recent trips to the Bahamas (2/13/04 - 2/16/04) and Italy (03/12/04 - 03/20/04)." You state that the department is willing to provide the requestor with aggregate totals of expenses paid for these trips. However, you claim that the remaining responsive information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information consists of vouchers that are subject to section 552.022(a) of the Government Code, which provides in pertinent part as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

....

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). Under section 552.022, the submitted vouchers must be released unless they are expressly confidential under other law. You assert section 552.108(b)(1) of the Government Code. However, this section constitutes a discretionary exception, which is intended to protect the interests of a governmental body, as distinct from exceptions that are intended to protect information deemed confidential by law or the interests of third parties. *See* Open Records Decision Nos. 586 (1991) (governmental body may waive law enforcement exception), 522 at 4 (1989) (discretionary exceptions in general), 177 (1977) (governmental body may waive statutory predecessor to section 552.108). Therefore, this exception does not constitute other law that makes information confidential for purposes of section 552.022(a)(3). Accordingly, the department may not withhold the submitted information under section 552.108 of the Government Code.

However, section 552.117(a)(2) excepts the home address and telephone number, social security number, and family member information of a peace officer<sup>1</sup> regardless of whether the officer made an election under section 552.024 of the Government Code. Therefore, the officers' social security numbers must be withheld under section 552.117(a)(2) of the Government Code.

Section 552.130 of the Government Code prohibits the release of information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state or a personal identification document issued by an agency of this state or authorized local agency. *See* Gov't Code § 552.130. Accordingly, the department must withhold the Texas driver's license information pursuant to section 552.130 of the Government Code.

Finally, we note that a portion of the submitted information is confidential under section 552.136 of the Government Code, which states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. Thus, pursuant to this section, the department must withhold the submitted account numbers.

In summary, we conclude that the department must withhold the section 552.117, 552.130, and 552.136 information. All remaining submitted information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

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<sup>1</sup>"Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler  
Assistant Attorney General  
Open Records Division

WMM/krl

Ref: ID# 203178

Enc: Submitted documents

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(w/o enclosures)